

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

December 10, 1987

The Honorable George Weisz
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I87-152 (R87-060)

Dear Representative Weisz:

You have asked whether every employee of a private organization who appears before a legislative committee or who communicates with a legislator about legislative matters must be registered as a lobbyist. We conclude that the employee must be registered if the employee appears on behalf of the organization for the purpose of influencing legislation. However, if the employee appears not on behalf of the organization for the purpose of influencing legislation, the employee need not be registered as a lobbyist. That the employee appears solely at the request of the legislature is one fact to be taken into account in determining the purpose of the employee's appearance.

Based on the language of A.R.S. §§ 41-1231 to -1239, the legislature obviously intended to regulate lobbyists as a way to disclose the organization for whom the lobbyist influences or attempts to influence legislation. We must construe the statute to give effect to the legislative intent.

A.R.S. § 41-1232(A) requires:

Before any lobbyist attempts to influence the passage or defeat of any legislation or to influence any official action, the principal engaging the lobbyist shall file with the secretary of state a written statement

The Honorable George Weisz
December 10, 1987
I87-152
Page 2

The statutes define a "lobbyist" as

any person employed, retained, or representing a person other than himself, with or without compensation, for the purpose of attempting to influence the passage or defeat of any legislation by communicating or attempting to communicate with any legislator, or for the purpose of attempting to influence any official action by communicating or attempting to communicate with any state officer or member of any state agency, board, commission or council.

A.R.S. § 41-1231(3) (emphasis added). A "person" is defined as "an individual, partnership, committee, association, corporation and any other organization or group of persons, except legislators." A.R.S. § 41-1231(5).

A private organization falls within the definition of "person." A.R.S. § 41-1232(A) requires that "any lobbyist" must be registered by the principal before influencing or attempting to influence lawmakers. A.R.S. § 41-1232(A) also requires the principal to file with the Secretary of State, in addition to other information, the name and business address of any lobbyist engaged by the principal, including any employee of the lobbyist if the employee acts as a lobbyist. Based on the plain meaning of A.R.S. § 41-1232, any employee of that organization who acts on behalf of the organization to influence lawmakers in enacting or defeating legislation must be registered as a lobbyist. See also Ariz.Atty.Gen.Op. 75-3.

You asked two hypothetical questions. The answer to each question depends on whether the person in a particular situation is representing another for the purpose of influencing lawmakers.

You first asked whether an employee who appears before a legislative committee must be registered as a lobbyist even if the employee is not retained for the express purpose of lobbying. In Ariz.Atty.Gen.Op. 75-3, we discussed a hypothetical example of a similar situation. Former A.R.S. § 41-1232(A) required a compensated lobbyist, not the principal who engaged the lobbyist, to comply with registration and reporting requirements. We concluded that to the extent that a

The Honorable George Weisz
December 10, 1987
I87-152
Page 3

paid employee, acting as such, attempted to influence either the passage or defeat of legislation or state action, the employee was receiving compensation for that purpose and was required to be registered. Id. The statute now provides that the principal, rather than the lobbyist must register, and the lobbyist must be registered even if he is not compensated for his representation. With removal of the compensation requirement, the reasoning of Ariz. Atty. Gen. Op. 75-3 is even stronger. Under the current language of A.R.S. § 41-1232 the employee in your hypothetical clearly is a lobbyist who at times appears on behalf of and at the behest of his employer for the purpose of influencing legislation. Therefore the employee must be registered by the principal as a lobbyist.

Your second hypothetical question deals with private individuals who are subpoenaed or requested by the legislature to appear before a legislative committee and testify about organizations of which they may be an employee or a volunteer. You have included as facts in this hypothetical that "they may be an employee or volunteer with that group but not for the purpose of lobbying." (Emphasis added.) The answer to this question depends on the particular facts involved.

As previously discussed, even though an employee is not hired specifically for lobbying, he may, at times, fit the statutory definition of lobbyist. If the employee or volunteer is summoned to the legislature without any exercise of influence or contact by the employer, and the employee's appearance is purely to provide information and not to represent the employer's interests and influence a decision of the legislators involved, the law does not require the employer to register the employee. The person is not acting on behalf of another organization to influence or to attempt to influence legislation, but merely providing information to the legislative committee. When summoned by the legislature rather than sent to the legislature by the employer, the appearance generally is not within the contemplated coverage of the statute's requirement that principals register those they send to the legislature to act on their behalf. As a result, the employee would not have to be registered as a lobbyist. If, however, the employer becomes aware of the request or subpoena and seeks to take advantage of the circumstance by asking the employee to represent his interests to influence the legislation in a manner that will benefit the employer, then the statute would require the employer to register the employee.

The Honorable George Weisz
December 10, 1987
I87-152
Page 4

In conclusion, A.R.S. § 41-1232(A) requires an organization to register an employee or volunteer as a lobbyist anytime it intends that the employee or volunteer communicate with legislators, representing its interests and attempting to influence legislation.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN
Attorney General

BC:PAS:ns